

# **Exhibit 7**



United States Department of the Interior  
NATIONAL PARK SERVICE  
15610 Vaughn Road  
Brecksville, Ohio 44141



## **ACTION MEMORANDUM**

**To:** Cam Sholly, National Park Service, Midwest Region Director  
**Through:** Shawn Mulligan, Contaminants Cleanup Branch Chief  
Craig Kenkel, Cuyahoga Valley National Park Superintendent  
**From:** Veronica Dickerson, Jaite Paper Mill CERCLA Project Coordinator  
**Subject:** Approval of CERCLA Time-Critical Removal Action at the Jaite Paper Mill Site, Cuyahoga Valley National Park, Ohio  
**Date:** July 17, 2018

## **OVERVIEW**

This Action Memorandum recommends and documents approval of a time-critical-removal action ("TCRA") in response to releases and threatened releases of hazardous substances at the Jaite Paper Mill site ("Site"), located in Cuyahoga Valley National Park ("CUVA") in Summit County, Ohio, in accordance with the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 USC 9601, *et seq.* A TCRA is recommended because risks to public health, welfare, and the environment as a result of the release and threatened release of hazardous substances at the Site dictate that the response action should be commenced as expeditiously as possible. It is anticipated that on-Site work will begin in September 2018.

The Site has been contaminated by hazardous substances as the result of historic operations at the Jaite Paper Mill. A portion of the Site, known as the Dump site, is an approximately 2-acre waste disposal area northwest of the former Jaite Paper Mill building along the bank of the Cuyahoga River. During the past year, NPS has observed that approximately 15 feet of the River bank along the Dump site has eroded due to more frequent extreme weather conditions, such as precipitation and flooding, which is causing the migration of hazardous substances into the Cuyahoga River. The proposed TCRA is an engineered slope stabilization along approximately 550 feet of the Dump site location to abate or significantly reduce human and ecological exposure to the release of hazardous substances from the Dump site portion of the Site to the Cuyahoga River. NPS is also conducting a CERCLA investigation in support of a final, comprehensive response action for the entire Site. The TCRA will be carefully coordinated with the final Site response action, so that the short term abatement of immediate threats at the Dump site will contribute to the efficient performance of the final response action for the Site.

The approximate cost of the TCRA is \$1,000,000; NPS has identified potentially responsible parties for the Site and will continue enforcement and cost recovery efforts.

## **Table of Contents**

ACTION MEMORANDUM .....	1
OVERVIEW .....	1
I. PURPOSE.....	3
II. SITE CONDITIONS AND BACKGROUND.....	3
A. Site Description and History .....	3
B. Investigations and Actions Taken to Date.....	4
C. New conditions leading to TCRA determination.....	6
1. The Dump site .....	6
2. Dump site waste characterization.....	6
3. Accelerated Erosion Discovered .....	7
4. NCP Factors .....	8
D. State and Local Authorities' Roles.....	9
E. National Priority List Status .....	9
III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES.....	9
IV. ENDANGERMENT DETERMINATION .....	10
V. PROPOSED ACTION.....	10
A. Proposed Action .....	10
B. Contribution to Long-term Cleanup Performance.....	10
C. Applicable or Relevant and Appropriate Requirements.....	11
VII. SCHEDULE AND COST.....	11
VIII. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN.....	11
IX. ADDITIONAL POLICY ISSUES.....	12
X. ENFORCEMENT .....	12
XI. RECOMMENDATION .....	12
XII. AUTHORIZATION .....	13



## **I. PURPOSE**

The purpose of this Action Memorandum is to recommend and document approval of the time-critical-removal action ("TCRA") described herein in response to releases and threatened releases of hazardous substances at the Jaite Paper Mill site ("Site"), located in Cuyahoga Valley National Park ("CUVA") in Summit County, Ohio, pursuant to the National Park Service's ("NPS's") delegated authority under Section 104(a) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 USC 9604, *et seq.* ("CERCLA") and Section 300.415 of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP") (40 CFR Part 300).

A TCRA is recommended because risks to public health, welfare, and the environment as a result of the release and threatened release of hazardous substances at the Site dictate that the response action should be commenced as expeditiously as possible, with initiation of on-Site work within six (6) months of the NPS decision to proceed with the action. This Action Memorandum ("Memorandum") details and documents the need for the proposed removal action, the scope of work, and the anticipated costs (approximately \$1,000,000).

## **II. SITE CONDITIONS AND BACKGROUND**

### **A. Site Description and History**

The Site is located on the eastern bank of the Cuyahoga River at its confluence with Brandywine Creek in Sagamore Hills, Ohio. It is approximately 30-acres and is situated in the central portion of CUVA west of and across the Towpath Trail from the Brandywine Ski Resort. The CUVA headquarters are located across the Cuyahoga River from the Site at the former mill town of Jaite. The 33,000-acre CUVA extends for 22 miles along the Cuyahoga River between the major metropolitan centers of Cleveland to the north and Akron to the south. The eastern and western CUVA boundaries lie slightly more than 1 mile east and west of the Site.

The Jaite Paper Mill area of CUVA is situated approximately 7 miles northeast of the intersection of Interstates 271 and 77, which afford access from the east or west. The Site is accessed via a dirt road that parallels the Towpath Trail for 0.25 mile south of Highland Road on the eastern side of the Cuyahoga River. The Site is bounded to the north by Brandywine Creek and to the southwest by the Cuyahoga River, beyond which extend several acres of wooded parkland crossed by park roads and recreational paths.

The Site lies at the bottom of the Cuyahoga River valley at an elevation of approximately 640 to 650 feet (ft) above mean sea level (amsl). The topography of the Site generally slopes from the southeast towards the confluence of the Cuyahoga River and Brandywine Creek to the north and northwest. The Ohio & Erie Canal (now dry) is defined by levees rising above grade. A low-lying dry area between the former mill building and the Towpath Trail, called the "Prism", was formerly used as a 500,000 gallon fire protection reservoir filled by diverting canal water.

The Jaite Paper Mill was constructed in 1905 and was in use, although not continuously, until 1984 (NPS 1979). The mill originally produced paper bags for flour and cement with pulp



produced in-house from rags and wood (NPS 1979). Pulp was later imported from outside sources (NPS 1979). Other products produced through the years of mill operations included fertilizer bags, bread sacks, rope, high quality kraft paper, and corrugated boxes (NPS 1979; EMG 1993b). The original mill building was ultimately expanded to 180,000 square feet and included above and below grade areas for boilers, chemical storage tanks, maintenance shops, paper storage, and production machinery.

Based on previous investigations, waste and production wastewater were disposed of on-Site during the years of mill operations. Lands south and west of the former mill building have been identified as waste disposal areas (EMG 1993b; TetraTech 2005). Production wastewater from papermaking are believed to have been discharged to the Cuyahoga River before 1967 (NPS 1979) and to Brandywine Creek (EMG 1993b). A series of ponds was constructed east of the former mill building across the Ohio & Erie Canal and Towpath Trail in the 1960s and 1970s to treat production wastewater (EMG 1993b).

The United States acquired the closed mill and grounds on January 16, 1985, to make it part of CUVA (EMG 1993b). Owners and operators of the mill before its incorporation into the CUVA included Jaite Paper Company, National Container Corporation, Owens Illinois, Inc., Tecumseh Corrugated Box Company, and JMJ Development.

The Site includes the area of the former Jaite Paper Mill, of which only a concrete foundation remains, as well as former railroad spurs and surrounding waste disposal areas associated with mill activities. After several structural and safety assessments throughout the 1990s and early 2000s, above-grade structures were demolished between January and July 2006 (TetraTech 2006). The former mill building area, located immediately west of the Towpath Trail, is closed to the public and secured by a perimeter fence with locked gates. A similar perimeter fence encloses Pond 1 of three ponds east of the Towpath Trail. Access to other adjacent areas of the Park and the Towpath Trail is unrestricted. An abandoned railroad track extends from a bridge across the Cuyahoga River onto the Site where it divides into five spurs that terminate in operational areas along the southern, eastern, and northern sides of the former mill building.

Figure 1 shows the overall Site and areas where the proposed TCRA described herein will take place.

## **B. Investigations and Actions Taken to Date**

To date, the following actions have taken place:

- Removal and disposal of six PCB capacitor banks;
- Removal and disposal of drums containing hazardous materials;
- Removal of UST's;
- Removal of retrofitted fuel oil-fired boilers;
- Removal of some ACM;
- Demolition and removal of above grade structures, leaving in place the concrete foundation slab and Fourdrinier machine; and



- Engineering Evaluation/Cost Analysis ("EE/CA") in support of a Non-Time-Critical Removal Action ("NTCRA")

Phase I and II Environmental Site Assessments in 1992-93 (EMG, 1993b) and 2002 (MVTI, 2002), respectively, and a Screening Investigation in 1993 (EMG, 1993a), found on-Site contaminants to include, Polychlorinated Biphenyls (PCB's), asbestos-containing material ("ACM"), and petroleum, oil, and lubricant products. UST's were also found on-Site.

A detailed walk-through cataloging the entire Site was conducted in May 2003. Around that time, a data review was also done of previous Site investigations and removal action. This information was presented in the June 2003 Site Inventory Report (Foster Wheeler, 2003). A Supplemental Site Investigation ("SSI") was conducted in 2004 by Tetra Tech to investigate the nature and extent of contamination at the Site. Over 150 samples were collected from surface and subsurface soil, sediment, pond surface water, and groundwater and were tested for volatile organic compounds ("VOCs"), semi-volatile organic compounds ("SVOCs"), metals, PCBs, pesticides, and herbicides. The investigation was described and results were explained in the February 2005 Site Characterization Report (Tetra Tech, 2005).

The SSI found dozens of individual compounds from the above classes of contaminants to be present throughout the Site in soil (surface and subsurface), sediment (inundated and no-longer-inundated), groundwater, pond surface water, and tank liquids. Furthermore, it revealed several areas at the Site where human health or ecological screening level criteria were exceeded for many different contaminants: 14 metals, two PCBs, three pesticides, and two SVOCs were found at high concentrations in soil; 13 metals, three PCBs, three pesticides, and two SVOCs were found at high concentrations in soil; 13 metals, three PCBs, nine herbicides, four SVOCs, and one VOC were found at high concentrations in sediment; nine metals and two PCBs were found at high concentrations in pond water and tank liquids. Many of the contaminants found are classified as CERCLA hazardous substances including, but not limited to, Aroclor 1248, Aroclor 1260, benzo(a)pyrene, naphthalene, xylenes, DDE, DDT, chlordane, dieldrin, endrin aldehyde, heptachlor epoxide, arsenic, chromium, copper, lead, mercury, and zinc. These SSI results also indicated the need for additional data.

Based on the findings of these initial investigations, NPS determined that further investigation was warranted, and it completed an EE/CA Work Plan in August 2016 (JCO 2016). It was anticipated that the EE/CA investigation described in the EE/CA Work Plan should be completed in phases. Phase I-II of the investigation was primarily intended to determine the current, and therefore, revised nature and extent of contamination across the entire Site based on previous investigation findings as a guideline for the Phase I-II investigation design and compounds of interest. In addition, existing waste piles, including the Dump site, required further and final delineation, and the extent of previously unknown subsurface migration conditions were determined. Data were assessed and interpreted to transition from Phase I to Phase II during one mobilization, and to inform decisions for a final design of a subsequent Phase III investigation.

NPS initiated the EE/CA in the late summer and fall of 2016, and it was completed in fall 2017. A final EE/CA Report is currently being drafted with anticipated completion in fall 2018. The Final EE/CA Report will then be issued for public review and comment, and based on the Report, the public comments, and the whole Administrative Record, NPS will select a non-time-critical removal action ("NTCRA") as a final response action at the Site to address the release or



potential release of hazardous substances.

### **C. New conditions leading to TCRA determination**

#### **1. The Dump site**

A portion of the Site, known as the Dump site, is an approximately 2-acre waste disposal area northwest of the former Jaite Paper Mill building, bounded to the north by the main railroad spur and the southwest by the Cuyahoga River (Figure 1). The Dump site has been found to contain twisted wire, cellophane, rubber tires, several partial drums, numerous intact drums, glass, plastic, reddish granular material resembling crushed brick, large household appliances, car engine parts, metal cabinets, and slag fill (TetraTech 2005). Waste wire is twisted around plastic sheeting and strapping because entire bundles of scrap paper and cardboard were placed into the pulper, and the wire and plastic did not dissolve in the pulper. (EMG 1993b) The slag encountered is comprised of sand to cobble sized clasts of black and red waste product. During the EE/CA soil sampling from test pits in the Dump site, waste was encountered from ground surface to between approximately 2 and 5 feet below ground surface (bgs). The Dump site is vegetated with grasses and several stands of mature trees. Exposed waste material was observed in a steep, eroded bank of the Cuyahoga River at the southern border of the Dump site where the River makes a sharp turn to the west.

#### **2. Dump site waste characterization**

During the EE/CA, soil samples were collected at the Dump site from test pits excavated by a tracked excavator to delineate and characterize the Dump site. The definition of extent of the Dump site and sampling were performed in a random grid pattern taking into account excavator access. Approximately 38 test pits were sampled from three areas of the Dump site by incremental soil sampling methods ("ISM"). Samples were analyzed for metals, SVOCs, PCBs and pesticides as described in the EE/CA Work Plan and the technical memoranda described previously. The primary contaminants of concern detected in the Dump site are metals.

Text Table 1, below, shows the metals results from two of the four Dump site test pit ISM soil samples collected. In these samples, 19 of the 21 metals analyzed are above the Project Action Levels ("PALs") provided in the EE/CA Work Plan, and 16 metals are 2 to 100 times greater than Site area reference samples. As shown in Text Table 1, antimony, lead, and zinc are greater than 100 times the Site reference sample concentrations, while barium, cadmium, chromium III, chromium VI, total chromium, and copper, are between 10 and 100 times greater. More importantly, toxicity characteristic leaching procedure ("TCLP") is designed to determine the mobility of both organic and inorganic analytes present in liquid, solid, and multiphasic wastes. TCLP analysis for lead in soil from the Dump site detected 19 milligrams per liter ("mg/l"), which is above the TCLP limit for hazardous waste of 5.0 mg/l. Other Dump site ISM soil samples showed similar results.

Client ID:	Project	Maximum	IW-DS-01-A-ISM		IW-DS-02-A-ISM		TCLP	IW-DS-02-A-TCLP	
Lab ID:	Action	Reference	240-70428-3		240-70432-1, -3 & -4		Limit	240-70432-2	
Date Sampled:	Level	Value	10/4/2016		10/5/2016			05-Oct-2016	
Matrix:	(mg/kg)	(mg/kg)	Waste Pile		Waste Pile			TCLP	
			Conc./RL	Qual	Conc./RL	Qual	(mg/L)	Conc./RL	Qual
<b>METALS (mg/kg)</b>									
Aluminum	50	9100	14000	J	11000	J	--		
Antimony	0.25	0.28	50	J	19	J	--		
Arsenic	0.25	17	53		30		5.0	0.0063	J
Barium	17.2	55	2200		250		100.0	1.4	
Beryllium	2.42	0.51	0.53		0.46		--		
Cadmium	0.27	0.8	10		18		1.0	0.11	
Chromium III	0.83	17	340		99		--		
Chromium VI	0.3	0.3	25	J	2.6	J	--		
Total Chromium	None	17	370		99		6.0	0.0028	J
Cobalt	2.3	12	29		17		--		
Copper	15	31	1300		2400		--		
Iron	5500	30000	170000		200000		--		
Lead	0.94	31	4700		3700		5.0	19	
Manganese	180	500	3000	J	1400	J	--		
Mercury	0.013	0.1	0.31		0.48		0.2	0.0020	U
Nickel	9.7	32	120		180		--		
Selenium	0.33	0.56	4.8	J	3.4	J	1.0	0.050	U
Silver	2	U	4.2		5.2		5.0	0.050	U
Thallium	0.027	0.47	1.1	U	11	U	--		
Vanadium	0.714	17	22		22		--		
Zinc	6.62	150	2100		17000		--		

**Notes**

No highlight &lt; 2 times maximum reference value

2 to 4.9 times maximum reference value

5 to 9.9 times maximum reference value

10 to 99.9 times maximum reference value

≥ 100 times maximum reference value

The Project Action Limit values are blue bold for any analyte that exceeds this value, and blue bold for any sample that exceeds this value.

--: Not Analyzed

Conc. / RL: Non detected reports to RL otherwise amount found

Qual: Final Qualifier

U: The analyte was analyzed for, but was not detected above the level of the reported sample quantitation limit.

J: The result is an estimated quantity. The associated numerical value is the approximate concentration of the analyte in the sample.

**3. Accelerated Erosion Discovered**

Historically, the Cuyahoga River flowed along the western border of the Site and formed a cut bank south of the Dump site area eroding and flooding an area of relatively lower topography in the eastern portion of the Site, shown from 1952 to 1973 in Figure 2. Gradually, over several decades, this cut bank feature migrated west to the higher topographic area of the Dump site area and began eroding portions of the Dump site by undercutting its bank and causing releases and threatened releases of the Dump site waste into the Cuyahoga River.



This gradual erosion led NPS to include River sediments adjacent to the Dump site in Phase III of its EE/CA investigation in 2017. A geophysical survey using a magnetometer was conducted along the River bed to delineate the areal extent of the waste from upstream to downstream of the Site. Based on the findings of the magnetic intensity survey, which will be discussed in greater detail in the EE/CA Report, waste material consisting of matted metal bundles, drums, tanks, and other metal pieces are being eroded from the Dump site by the Cuyahoga River (DCR, 2018). Based on the magnetometer survey results, the greatest portion of metal waste material is being deposited adjacent to the Dump site in the form of individual pieces or as part of a mid-channel bar. Because the downstream segment of the survey ended approximately 950 feet downstream from the Dump site with detections of waste material, the downstream extent of waste material is unknown.

While erosion of the Cuyahoga River bank was evident from Site and River reconnaissance based on the metal material in the River adjacent to the Dump site, it was not clear how much erosion was occurring. In March 2017, NPS installed fencing to enclose the Dump site to restrict access and protect human and ecological health. The fencing was installed approximately 12 to 15 feet away, or north, from the River bank. In March 2018, CUVA law enforcement conducted a routine walk-through of the Site, following an incident with a trespasser. During this on-Site inspection, the officers visually observed a dramatic reduction in the Cuyahoga River bank directly adjacent to the Site, as a result of recent, excessive flooding of the River. At the time of completion of this Action Memorandum, the River bank is at, or in some locations under, the Dump site fencing. In other words, during the last year since the fence was installed, approximately 12-15 feet of the River bank at the Dump site has eroded into the Cuyahoga River due to extreme weather events, such as dramatic precipitation and flooding, and changes in the River's trajectory.

#### **4. NCP Factors**

Upon discovery of this accelerated River bank erosion, along with the subsequent receipt of validated data from the EE/CA showing metals concentrations in the Dump site area, NPS considered the factors outlined in the NCP at 40 CFR 300.415(b)(2), and determined that a removal action is appropriate for the Site. Specifically:

- (a) Accelerated natural bank erosion along the Cuyahoga River at the Site has caused hazardous substances to migrate beyond the perimeter of the fence restricting access to the Site, creating actual or potential exposure of hazardous substances to nearby human populations, animals, or the food chain (40 CFR 300.415(b)(2)(i)); and
- (b) hazardous substances or pollutants or contaminants in drums, barrels, or other bulk storage containers, may pose a threat of release (40 CFR 300.415(b)(2)(iii)); and
- (c) As a result of the progressing Site River bank instability, surface and subsurface soils with high levels of hazardous substances are migrating off-Site (40 CFR 300.415(b)(2)(iv)); and
- (d) weather conditions, such as precipitation and further flooding, may cause continued migration of these hazardous substances (40 CFR 300.415 (b)(2)(v)).



#### **D. State and Local Authorities' Roles**

NPS is exercising its delegated CERCLA authority as the lead agency to address the release or threatened release of hazardous substances at the Site.

NPS has been in contact with the Ohio Environmental Protection Agency and Ohio Department of Natural Resources during the EE/CA investigation for the Site, including soliciting State Applicable, Relevant and Appropriate Requirements ("ARARs") related to the Site. NPS has also been in contact with the United States Environmental Protection Agency ("USEPA"), due to USEPA's interest in the Cuyahoga River as an Area of Concern.

#### **E. National Priority List Status**

The Site is not listed on the National Priority List and has not been proposed for listing.

### **III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES**

NPS has determined that threats to public health, welfare, and the environment at the Site necessitate a TCRA pursuant to CERCLA Section 104(a) and Section 300.415 of the NCP. The erosion of the River bank is causing a release or potential release of contamination at the Site that presents unacceptable risks to both human and ecological receptors. A TCRA is necessary to abate, prevent, minimize, stabilize, mitigate, or eliminate the following threats associated with such a release or potential release.

The destabilized condition of the Site, due to the River bank erosion, facilitates the migration of hazardous substances from the Site and into the Cuyahoga River watershed and fishery below. This migration and the ongoing threat of migration of hazardous substances from the Site poses an actual or potential exposure to human populations, ecological receptors, and aquatic ecosystems. (40 CFR 300.415(b)(2)(i))

Assessments performed at the Site confirm the presence of elevated levels of hazardous substances in Site soils, including, but not limited to, antimony, arsenic, barium, cadmium, chromium III and IV, copper, lead and zinc. As a result of the progressing Site River bank instability, surface and subsurface soils with high levels of hazardous substances are migrating off-Site. (40 CFR 300.415(b)(2)(iv))

In combination with the steep slope, weather conditions (i.e., rain and snowmelt) exacerbate the migration of hazardous substances off-Site. (40 CFR 300.415(b)(2)(v))

There is also a significant and imminent threat to human health and welfare from materials from the Dump site coming to be located in the River channel. (See NCP Section 300.415(b)(2)(viii) regarding consideration of "other situations or factors that may pose threats" to public health or welfare or the environment.) This section of River that runs past the Jaite Paper Mill Site is part of the CUVA water trail. Individuals kayaking, canoeing or tubing in the River are at risk of



being caught on or impaled by drums and other such metal objects that have sloughed off due to River bank failure.

The proposed TCRA is meant to abate or significantly reduce human and ecological exposure to the release of hazardous substances and to reduce or eliminate the migration of hazardous substances from the Site into the Cuyahoga River. The proposed TCRA will be carefully coordinated with any selected NTCRA, so that the short-term abatement of immediate threats at the Site is consistent with and will contribute to the efficient performance of the long-term response action for the Site.

#### **IV. ENDANGERMENT DETERMINATION**

Actual or threatened releases of hazardous substances from the Site may present an imminent and substantial endangerment to public health, or welfare, or the environment.

#### **V. PROPOSED ACTION**

##### **A. Proposed Action**

The proposed TCRA is an engineered slope stabilization along approximately 550 feet of the Dump site location to abate or significantly reduce human and ecological exposure to the release of hazardous substances from the Dump site portion of the Site to the Cuyahoga River due to accelerated, natural bank erosion. The design of the engineered slope stabilization will comply with all CERCLA, NCP, and NPS requirements.<sup>1</sup>

##### **B. Contribution to Long-term Cleanup Performance**

The proposed TCRA will reduce, in the short term, risks to human and ecological receptors by reducing exposure to hazardous substances where they are migrating outside of the restricted-access area, as well as reducing the potential for off-Site migration of hazardous substances before the permanent CERCLA response action can be implemented.

NPS will be finalizing an EE/CA Report in fall 2018, which will include a proposed NTCRA,

---

<sup>1</sup> NPS requested that a contractor evaluate a range of feasible, cost effective bank stabilization alternatives for NPS consideration. Technologies discussed but dismissed are as follows.

- Sheet pile steel wall – This design requires installation to significant depths, faces difficulties with installation and eventual extraction at this Site's location, less versatile than other designs, and represents the highest cost option.
- Gabion wall – This design is cost effective, but does not provide the versatility for installation and adaptation to site-specific conditions as other designs, and partial removal options are more complicated. River bottom installation is also difficult.
- Concrete blocks – Provides versatility and cost effective, but chemical degradation of this construction material into surface waters is undesirable. Similar to the gabion wall, river bottom installation is difficult.
- Rip rap stone wall with a surface of bioengineered terraced soil and planted tree surface – This design is versatile and visually appealing, but not cost effective and subject to rapid surface erosion prior to plant materials providing sufficient growth. Installation of the bioengineered surface is ineffective as a short-term solution.

and will publish it for public comment. Upon completion of the public comment period, NPS will select a CERCLA NTCRA as a permanent and final response action to address the releases of hazardous substances at the Site. Depending on the complexity of the NTCRA selected, it may take over a year for removal action design and mobilization to perform the selected action. NPS has, therefore, determined that the engineered slope stabilization must be undertaken in order to successfully stabilize the Site in preparation for the anticipated NTCRA planned for the area and to abate or minimize the immediate risks posed by the eroding River bank until the NTCRA can be implemented.

The proposed TCRA will be carefully coordinated with any selected NTCRA so that the short-term abatement of threats at the Site achieved through implementation of the TCRA is consistent with and will contribute to the long-term NTCRA for the Site.

### **C. Applicable or Relevant and Appropriate Requirements**

Pursuant to the NCP, a removal action shall, to the extent practicable considering the exigencies of the situation, attain Applicable or Relevant and Appropriate Requirements ("ARARs") under federal or state environmental laws. (40 CFR 300.415(j)). "Practicability" is based upon the urgency of the situation and the scope of the removal. NPS has determined that an independent ARARs analysis is not practicable at this time due to the urgency of the eroding River bank at the Site and scope of the proposed TCRA described herein. Instead, NPS is evaluating ARARs to be attained during the implementation of the subsequent, final NTCRA at the Site.

## **VII. SCHEDULE AND COST**

The proposed TCRA is scheduled to be completed in the early fall of 2018, during low-flow conditions of the Cuyahoga River. Construction is expected to require approximately one month.

Estimated costs for these services based on preliminary design concepts for Cuyahoga River bank stabilization along approximately 550 feet of the Dump site location is \$1,000,000. Inclusive with this estimate is construction and oversight of a riprap wall or similar installation composed of natural material keyed into the River bottom several feet below the sediment to the ground surface, permitting and engineering design work, hazardous waste handling and disposal, and completion of all pertinent documents.

## **VIII. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED OR NOT TAKEN**

Erosion of the Cuyahoga River bank along the Dump site will continue, due to extreme natural events, including flooding and changing River trajectory. Delaying action will allow existing actual and potential risks to human health and ecological receptors to remain unabated until a permanent NTCRA is selected and implemented, which will be over a year away.



## **IX. ADDITIONAL POLICY ISSUES**

The Cuyahoga River is one of 43 contaminated sites designated as an “Area of Concern” by the USEPA under the 1987 Great Lakes Water Quality Agreement. NPS has been in contact with USEPA regarding the Jaite Paper Mill Site and will continue to keep USEPA informed of NPS response action activities.

## **X. ENFORCEMENT**

NPS has identified Potentially Responsible Parties (“PRPs”) for the Site, pursuant to Section 107(a) of CERCLA, and will initiate settlement discussions with the PRPs regarding past and future costs of response action at the Site. All actions taken by NPS at the Site have been, and will continue to be, performed in compliance with the CERCLA and the NCP, and are eligible for cost recovery.

## **XI. RECOMMENDATION**

This decision document identifies and recommends a CERCLA TCRA that will, in the near term, abate or minimize actual and potential risks at the Jaite Paper Mill Site. It is developed in accordance with CERCLA and is not inconsistent with the NCP. This decision is based on the administrative record for the Site.

Conditions at the Site meet the criteria, as defined by 40 CFR 300.415(b) of the NCP, for a lead agency to take “any appropriate removal action necessary to abate, prevent, minimize, or eliminate the release or threat of release.” NPS has, therefore, made the determination that a TCRA is necessary at the Site to prevent or significantly reduce human and ecological exposure to the release of hazardous substances and to reduce or eliminate the migration of hazardous substances from the Site into the Cuyahoga River, due to accelerated, natural bank erosion.

The proposed TCRA will be carefully coordinated with any selected NTCRA, so that the short term abatement of immediate threats at the Site is consistent with and will contribute to the efficient performance of the long term response action for the Site.

## XII. AUTHORIZATION

Because conditions at the Site meet all applicable CERCLA and NCP criteria for undertaking a TCRA, I recommend/concur/approve that the NPS implement the TCRA as proposed herein.

Recommended: Veronica Dickerson Date: 7-17-18  
Veronica Dickerson  
NPS Site CERCLA Project Coordinator

Concurred:  Date: 7.18.18  
Craig Kenkel  
Cuyahoga Valley National Park Superintendent

Concurred:  Date: 7/20/2018  
Shawn P. Mulligan  
Contaminants Cleanup Branch Chief

Approved:  Date: 7/27/18  
Cam Sholly  
National Park Service, Midwest Region Director